

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

M.D., by her next friend, Sarah R. §
Stukenberg, *et al.*, individually and on §
behalf of all others similarly situated, §
§
Plaintiffs, § CIVIL ACTION NO. 2:11-CV-00084
v. §
§
GREG ABBOTT, in his official capacity §
as Governor of the State of Texas, *et al.*, §
§
Defendants. §

DEFENDANTS' SUBMISSION OF SPECIAL MASTER CANDIDATES

The parties have been unable to agree on a special master. Pursuant to Section V.B(1) of the Memorandum Opinion and Verdict of the Court (Doc. 368)(the “Opinion”) and subject to their objections described below, Defendants submit two candidates for special master.

Defendants have appealed to the United States Court of Appeals for the Fifth Circuit the Opinion, including its provision for the appointment of a special master. (Doc. 369.) By Opposed Motion to Stay Injunction Pending Appeal (Doc. 370), Defendants asked the Court to stay enforcement of the injunction in the Order and challenged therein the propriety of the appointment of a special master. The Court denied that motion. (Doc. 371.) On Friday, January 15, 2016, Defendants filed in the Fifth Circuit their Appellants’ Opposed Motion to Stay Injunction Pending Appeal. (Case No. 16-40023, Document 00513345220.) In that motion, which remains

pending at the time of this filing, Defendants challenge, among other things, the propriety of the appointment of a special master. This submission is subject to and without waiver of Defendants' objections to the appointment of a special master as set forth in their motions to stay, both in this Court and in the Fifth Circuit. As set forth in those motions, appointment of a special master, as contemplated in the Opinion, is inappropriate because the injunction the special master will be tasked to implement is improper, the contemplated appointment is outside the scope of Fed. R. Civ. P. 53, and the appointment will violate Fed. R. Civ. P. 65(d).

Defendants propose John Stephen and Tina Amberboy. Both of these candidates are highly qualified to serve as a special master. Mr. Stephen's experience, training, education and other qualifications are set forth in his curriculum vitae, which is attached as Exhibit A. Ms. Amberboy's are set forth in her curriculum vitae, which is attached as Exhibit B.

Defendants stand ready to present their nominees at the hearing the Court has advised it anticipates conducting.

Respectfully Submitted,

KEN PAXTON
Attorney General of Texas

CHARLES E. ROY
First Assistant Attorney General

JAMES E. DAVIS
Deputy Attorney General for Civil
Litigation

ANGELA V. COLMENERO
Chief, General Litigation Division

/s/ Thomas A. Albright _____

THOMAS A. ALBRIGHT
Texas Bar No. 00974790
Attorney-in-Charge
Assistant Attorney General
General Litigation Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
(512) 463-2120
(512) 320-0667 (Fax)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on this, the 19th day of January 2016, a true and correct copy of the foregoing document has been filed with the court's CM/ECF electronic case management system, thus providing service upon all participants.

/s/ Thomas A. Albright _____

THOMAS A. ALBRIGHT
Assistant Attorney General